SUPREME COURT OF THE UNITED STATES.

No. 44.

CHARLES D. DELASSUS, APPELLANT,

VERSUS

THE UNITED STATES.

ON APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE MISSOURI DISTRICT.

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The petition of Charles Dehault Delassus, to the honorable the Chief Justice of the United States, repectfully sheweth:

That at the session of the district court of the United States for the district of Missouri, held at St. Louis, in February, of the year 1830, last past, a final decree was pronounced by said court in favor of the United States, in the case of Charles Dehault Delassus, under Deluzieres, petitioner, *vs.* the United States.

That on the hearing of said cause, and after said decree was pronounced, it was distinctly understood, and the intention was expressed by the counsel for your petitioner, that an appeal would be taken by him to the Supreme Court of the United States.

That immediately after the said decree was pronounced, the said district court adjourned, sine die, and since that time has ceased to exist, at least for the purpose of making final decisions, by virtue of that provision in the act of Congress of the 24th May, 1828, which declares that the act of the 26th May, 1824, shall be continued in force until the 26th May, 1830, and no longer.

That your petitioner, against whom the decree aforesaid was pronounced, availing himself of that provision in the act of the 26th May, 1824, which declares that in all cases the party against whom the final decree may be given, shall be entitled to an appeal within one year from the time of its rendition, to the Supreme Court of the United States, has applied to the clerk of said district court of Missouri, under the act of 1824, and has obtained a transcript of the record in said cause, and has applied to the Judge of said district court for a citation to be directed to the proper officer of the United States, and has tendered the necessary appeal bond, and has prayed that said Judge should allow the appeal, and should do such other judicial act or acts as might be necessary to enable your petitioner to avail himself of the right of appeal, so to him given by the act of Congress of 1824, continued by the act of 1828, aforesaid.

Your petitioner further respectfully sheweth, that said Judge having taken said application into consideration, has decided that he has ceased to have any authority under the act of 1824, or under any other act of Congress continuing or amending the same, and therefore has declined allowing the appeal or issuing the citation prayed for by your petitioner.

Your petitioner sheweth, that in consequence of the above decision of the said district Judge, he will be deprived of his right of appeal, unless the honorable the Supreme Court, or a Judge thereof, shall interpose to relieve him.

Wherefore your petitioner respectfully prays, that a citation be issued in due form in the above cause, directed to the proper officer, requiring him to appear and shew cause in the honorable the Supreme Court of the United States, at the present term thereof, why said decree should not be reversed, and that the appeal bond ready to be tendered by your petitioner may be approved of, if found sufficient, and that such other order may be made as to your honor shall seem proper in the premises; and your petitioner will ever pray, &c.

L. E. LAWLESS, *for petitioner.*

Appeal allowed.

J. MARSHALL,
Chief Justice of the United States.

United States of America to the United States, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in August next, pursuant to an appeal filed in the Clerk's office of the district court of the United States for the district of Missouri, wherein Charles Dehault Delassus is appellant, and the United States is appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

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Witness the honorable John Marshall, Chief Justice of the Supreme Court of the United States, at the city of Washington, this 17th day of January, A. D. 1831.

J. MARSHALL,
Chief Justice of the United States.

WASHINGTON CITY, *January 18th*, 1831.

Served this citation on Mr. Wirt, by leaving with him a true copy, and shewing him the original at the same time.

THOMAS WOODWARD.

Sworn to in open court.

WM. THOMAS CARROLL, *C. S. C. U. S.*

Know all men by these presents, that we, Marie P. Leduc and Luke E. Lawless, are held and firmly bound unto the United States in the full and just sum of two hundred dollars, to be paid to the said certain attorney, or assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this seventeenth day of January, in year of our Lord one thousand eight hundred and thirty-one.

Whereas lately, at a district court of the United States for the district of Missouri, in a suit depending in said district court wherein Charles Dehault Delassus was petitioner and the United States was defendant, a final decree was passed against the said Delassus, and the said Delassus having entered an appeal from the said decree of the said district court to the Supreme Court of the United States, and obtained a citation directed to the said the United States, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of August next:

Now the condition of the above obligation is such, that if the said Charles Dehault Delassus shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

M. P. LEDUC, [SEAL.]
L. E. LAWLESS, [SEAL.]

Sealed and delivered in presence of
WM. THO. CARROLL.
Approved by

J. MARSHALL,
Chief Justice of the United States.

UNITED STATES OF AMERICA, MISSOURI DISTRICT, sct.

Be it remembered, that heretofore, to wit, on the eighteenth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Charles Dehault Delassus, legal representative of Pedro Dehault Delassus De Luzieres, by his solicitors, filed in the office of the Clerk of the United States court for the district of Missouri, under authority of an act of Congress, entitled "An act enabling the claimants to lands within the limits of the State of Missouri and the Territory of the Arkansas to institute the proceedings to try the validity of their claims," his petition praying the confirmation of his title to seven thousand and fifty six arpents of land, as the same is in said petition described, which said petition is in the words and figures following, to wit:

To the honorable the Judge of the district court of the United States for the State of Missouri.

Respectfully sheweth Charles Dehault Delassus, of the county of St. Louis, State of Missouri, that on the third day of March, in the year one thousand seven hundred and ninety-five, Don Pedro Dehault Delassus De Luzieres, the father of your petitioner, addressed his petition to Don Zenon Trudeau, Lieutenant Governor of the province of Upper Louisiana, praying that a concession or grant should be made to him and his heirs of a tract of land containing seven thousand and fifty-six arpents, French measure, being a league square. That said Lieutenant Governor, in compliance with said petition, and in obedience to an official instruction addressed to him by the Governor General of the province of Louisiana, the Baron of Carondelet, did, by decree bearing date the first day of April, in year seventeen hundred and ninety-five aforesaid, grant to said De Luzieres, and his heirs for ever, a tract of a square league situated on a branch of the river St. Francis, called Gaboury, and by said decree ordered Francois Vallé, the captain commandant of the port of St. Genevieve, to put the De Luzieres forthwith into possession of said tract, and also directed that said tract should be surveyed in due form by the surveyor, then about to be appointed for the province of Upper Louisiana. That on the fifteenth day of April, in the year aforesaid, the said De Luzieres was formally put into possesssion of said square league by said Francois Vallé, in pursuance of said decree. That some time elapsed from the said delivery of possession until the appointment of a surveyor for said province of Upper Louisiana, and by which delay, and other unavoidable difficulties, the said De Luzieres was prevented from obtaining a survey of said tract until the fourteenth day of December, one thousand seven hundred and ninety-nine, on which day the Surveyor General of Upper Louisiana, Don Antoine Soulard, in pursuance of an order to him specially directed by the Lieutenant Governor of said province, surveyed said tract and located the same according to the terms of the above mentioned decree of concession, and the possession delivered as aforesaid to said De Luzieres, all which will more fully appear by said original decree of the Lieutenant Governor, said official instruction of said Governor General, the certificate of delivery of possession by said Francois Vallé, the said order of survey by the Lieutenant Governor, and, lastly, by the official return and certificate of survey by the Surveyor General, which certificate bears date the fifth day of March, one thousand eight hundred, and which original documents are here brought into court, and ready to be produced and proved, and to which your petitioner begs leave to refer. That said De Luzieres, at the date of said decree of concession, and until his decease, was a resident of the province of Upper Louisiana. Your petitioner further sheweth, that said concession and claim thereunder having been submitted to the board of commissioners for the adjustment of Spanish and French land claims, was rejected on the ground that the land intended in the said concession contained a lead mine and on no other. That said tract of a league square has been reserved from sale in the public land office until a decision shall be had thereon by the proper tribunal, and that said tract, as laid down on the general plat in the office of the Register, is situated and bounded as follows, viz: Beginning in the southeast quarter of section number twenty-five, township number thirty-five, north, of range number five, east, at a post, a corner of John Capehart's survey, and runs thence south eight west,

with Capehart's line, five chains eighty-three links to Capeheart's and D. Murphey's corner; sixty-four chains sixteen links to D. and S. Murphey's corner; one hundred and seven chains ninety-one links to S. Murphey and Coen's corner; one hundred and thirty-seven chains and forty-one links to Coen and W. Murphey's corner; two hundred and five chains and thirty-two links to the southwest corner of W. Murphey's survey; two hundred and forty-five chains to a point in the northwest quarter of section number thirteen, in township number thirty five, north, of range number five, east; thence north eighty two west two hundred and forty-five chains to a point in the southwest quarter of section number nine, in township number thirty-five, north, of range number five, east; thence north eight east two hundred and forty-five chains, to a point in the southeast quarter of section number twenty-eight, in township number thirty-six, north, of range number five, east; thence south eighty-two east one hundred and sixty-three chains ninety-eight links to the southwest corner of Joseph Murphey's; seventy-two hundred and thirteen chains and forty-five links to Joseph Murphey's southeast corner, on the west boundary of John Capehart's survey; thence thirty-eight west, with Capehart's survey, one chain and thirty-two links to his southwest corner; thence south eighty-two east, with Capehart's line, thirty-one chains and fifty links, to the place of beginning. Your petitioner further sheweth, that said league square, and all claim and title thereto since the decease of said De Luzieres, who departed this life some years since, has been legally vested in your petitioner, and that no part of said tract is occupied or claimed by any person or persons adverse to the claim or title of your petitioner. Wherefore your petitioner prays that the validity of said concession and claim to confirmation of said tract may be inquired into, and decided upon by this honorable court, and that inasmuch as said concession and survey might have been perfected into a complete title under and in conformity to the laws, usages, and customs of the Government under which the same originated, had not the sovereignty of the country been changed or transferred to the United States, your petitioner prays that his title and claim be confirmed to said league square, located and bounded as aforesaid. And your petitioner prays that a citation be directed to the district attorney of the United States, requiring him to appear and shew cause, if any he can, why the confirmation prayed for by your petitioner should not be decreed to him. And your petitioner will ever pray, &c.

CHARLES DEHAULT DELASSUS.

And thereupon, on the day of the filing of said petition, the said Clerk issued a citation to the attorney of the United States for the Missouri district, in the words following, to wit:

MISSOURI DISTRICT, sct.—*The President of the United States of America to the Marshal of said district, greeting:*

You are hereby commanded to notify and cite the Attorney of the United States for the district of Missouri that he be and appear before the court of the United States for the Missouri district, on the fourth Monday of June next, then and there to answer the petition of Charles Dehault Delassus, legal representative of Pedro Dehault Delassus De Luzieres, who prays the confirmation of seven thousand and fifty six arpents of land, and make defence, if any he has, or knows of any thing to say why the same should not be confirmed accordingly; hereof fail not, and have you then there this writ.

Witness the honorable James H. Peck, esquire, Judge of the United States for the Missouri district, the eighteenth day of May, 1829.

Issued at office in St. Louis, under my private seal, there being no public seal provided, the day and year last aforesaid.

[L. S.] ISAAC BARTON, *Clerk.*

And afterwards, to wit, at the June session of said court, in the year eighteen hundred and twenty-nine, comes the attorney for the United States, and files his answer to said petition, and thereupon, on application of said petitioner by his solicitor, and with the consent of said attorney for the United States, this cause is continued.

The answer of the attorney of the United States, as filed to the said petition, is as follows, to wit:

The answer of Beverly Allen, attorney of the United States, to the petition of Charles Dehault Delassus, praying the confirmation of a tract of land containing 7,056 arpents.

This respondent, for and on behalf of the United States of America, reserving to himself and to the said United States, now and at all times hereafter, all manner of advantage of exception to the manifold errors, imperfections and uncertainties in the said petition contained, for answer thereto, or so much thereof as this respondent deems it necessary and material for him to answer, answering, says, that he is wholly uninformed and ignorant of all and every the matters and things in said petition contained, and therefore he does not admit the same or any of them to be true, but prays the court that the said petitioner may be held and required to prove and substantiate the material allegations in said petition contained, and all such other matters and things, the existence whereof may be deemed essential and necessary for the confirmation of the said claim; and this respondent, &c.

BEVERLY ALLEN,
United States' attorney, Missouri district.

And afterwards, to wit, at the October session of said court, in the year aforesaid, comes as well the petitioner, by his solicitors, as the attorney for the United States, and this cause coming on to be heard and debated, upon the petition, answer, exhibits, and testimony, and all and singular the premises being seen and heard, and to the court submitted. Whereupon, and for that the court here are not advised what decree to render of and concerning the premises aforesaid, they will consider thereof until the next session of the court, until which time this cause is continued.

And afterwards, to wit, at the January session of said court, in the year eighteen hundred and thirty, comes again as well the said petitioner, by his solicitors, as the attorney for the United States, to hear the judgment of the court; and the court here now being sufficienty advised of and concerning the premises, and it appearing to the court that the petition, in substance, states, that on the third day of March, in the year one thousand seven hundred and ninety-five, Pedro Dehault Delassus De Luzieres, the father of said petitioner addressed to Don Zenon Trudeau, then Lieutenant Governor of Upper Louisiana, his petition praying that a concession or grant should be made to him and his heirs, of a tract of land containing seven thousand and fifty-six arpents, French measure, being a league square. That said Lieutenant Governor, in compliance with said petition, and in obedience to an official instruction addressed to him by the Governor General of the province of Louisiana, the Baron of Carondelet, did, by decree bearing date the first day

of April, in the year one thousand seven hundred and ninety-five, grant to said De Luzieres, and his heirs for ever, a tract of a square league situate on a branch of St. Francis river, called the Gaboury, and by said decree ordered Francois Vallé, captain commandant of the post of St. Genevieve, to put the said De Luzieres forthwith into possession of the said tract, and also directed that the said tract should be surveyed in due form by the surveyor then about to be appointed for the province of Upper Louisiana.

That on the fifteenth day of April, in the year aforesaid, the said De Luzieres was formally put into possession of said square league, by said Francois Vallé, in pursuance of said decree. That some time elapsed from the said delivery of possession until the appointment of the surveyor for said province of Upper Louisiana, by which delay and other unavoidable difficulties, the said De Luzieres was prevented from obtaining a survey of said tract until the fourteenth day of December, one thousand seven hundred and ninety-nine. That on said fourteenth day of December, in pursuance of a special order to him directed, the Surveyor General, Antoine Soulard, surveyed said tract, and located the same according to the terms of the decree, concession, and possession delivered to the said De Luzieres. That said De Luzieres, at the date of said decree of concession, and until his decease, was a resident of the province of Upper Louisiana. The petition states, that said concession and claim thereunder was submitted to the board of commissioners for the adjustment of French and Spanish land claims, and was rejected by said board on the ground that the land intended in said concession contained a lead mine, and on no other. That said tract of a league square has been reserved from sale in the public land office until a decision shall be had thereon by the proper tribunal, and that said tract, as laid down on the general plat in the office of the Register, is situated and bounded as follows, to wit: beginning in the southeast quarter section, number twenty-five, township number thirty-five, north, of range number five, east, at a post, a corner of John Capehart's survey; and thence south eight west with Capehart's survey, and thence south eight west, with Capeharts line, five chains eighty three links to Capehart's and D. Murphey's corner; sixty-four chains sixteen links to D. and S. Murphey's corner; one hundred and seven chains ninety-one links to S. Murphey's and Coen's corner; one hundred and thirty-seven chains and forty-one links to Coen's and W. Murphey's corner; two hundred and five chains to the corner of W. Murphey's survey; two hundred and forty-five chains to a point in the northwest quarter of section number thirteen, in township number thirty-five, north, of range number five, east; thence north eighty-two, west two hundred and forty-five chains to a point in the southwest quarter of section number nine, in township number thirty-five, north, of range number five, east; thence north eight east two hundred and forty-five chains to a point in the southeast quarter of section number twenty-eight, in township number thirty-six, north, of range number five, east; thence south eighty-two east one hundred and sixty chains ninety-two links to the southwest corner of Joseph Murphey's survey, two hundred and thirteen chains and forty links to Joseph Murphey's southeast corner, on the west boundary of John Capehart's survey; thence thirty-eight west, with Capehart's survey, one chain and thirty-two links to his southwest corner; thence south eighty-two, with Capehart's line, thirty-one chains and fifty links, to the beginning. The petitioner further states, that said league square and all claim and title thereto since the death of said De Luzieres, who departed this life some time since, has been legally vested in said petitioner, that no part

of said tract is occupied or claimed by any person or persons adverse to the claim or title of said petitioner. The petition then prays that the validity of said concession or title may be inquired into and decided upon by this court. The answer of the attorney for the United States sets forth, that respondent is wholly ignorant and uninformed of the matters and things in said petition stated; that he neither admits or denies them, or any part of them; but prays that said petitioner may be held and required to prove all the material allegations in said bill contained, and all such other matters and things as may be deemed essential to the confirmation of said claim.

And it appearing to the court by the evidence offered on behalf of the petitioner, that on the third day of March, in the year seventeen hundred and ninety-five, Pedro Dehault Delassus De Luzieres, the father of said petitioner, addressed to Don Zenon Trudeau, Lieutenant Governor of the province of Upper Louisiana, a petition praying a concession to him and his heirs of a tract of land of a league square for the exploration of lead mines. That said petition of De Luzieres refers to a letter of the Governor General, the Baron de Carondelet, dated at New Orleans, on the seventh day of May, in the year seventeen hundred and ninety-three, addressed to said Lieutenant Governor, requiring him to put the said De Luzieres in possession of the land he may solicit for the exploration, benefit, and enjoyment of the lead mines. That on the first day of April, in the year seventeen hundred and and ninety-five, the said Lieutenant Govenor, in compliance with the aforesaid petition, granted to said De Luzieres the concession demanded of a league square, and commanded Francis Vallé, the commandant of the post of St. Genevieve, to put said petitioner in possession of said land; and that a regular survey of the same should be made as soon as a regular surveyor should be appointed for Upper Louisiana. That on the fifteenth day of the month, and year last aforesaid, the said commandant, in compliance with said decree and order of the Lieutenant Governor, put the said De Luzieres in possession of the said league square, on a branch of St. Francis river, called the Gaboury. That on the twenty-ninth day of November, in the year seventeen hundred and ninety-nine, Charles Dehault Delassus, then Lieutenant Governor of Upper Louisiana, by a special order of survey, ordered and directed the surveyor, Antoine Soulard, to survey the said league square granted by the Lieutenant Governor as aforesaid to the said De Luzieres; and that, on the fourteenth day of December, in the year eighteen hundred, the surveyor Antoine Soulard, in pursuance of the said order of survey, surveyed the same, and formally put the said De Luzieres into possession of the said league square. And it also appearing in evidence, that said claim, as stated in said petition, was submitted to the board of commissioners for the adjustment of land titles in the State of Missouri, and by them rejected. That said land has been reserved from sale in the public land office. That the said tract, as laid down on the general plat in the office of the Register, is situated and bounded as stated in said petition. And it further appearing in evidence, that said De Luzieres has departed this life many years since, and that the said petitioner Delassus is one of several children of the said De Luzieres, who are yet living. That said De Luzieres was commandant of New Bourbon at the date of the concession of said league square, made to him by Zenon Trudeau, and that said De Luzieres was held in great respect by the Spanish Government. And the further evidence in this cause, consisting of the depositions of Auguste Chouteau, Mary P. Leduc, and Albert Tison, and also transcripts of the several papers referred to in those depositions, with a sworn

translation of such of the papers as are in a foreign language; and, also, a copy of a concession to John B. Janis, the evidence of Philip Fine, a copy of the commission of Charles Dehault Delassus, as Lieutenant Governor, with a sworn translation; a copy of a complete title to Regis Loisel, with a sworn translation; a copy of a complete title to Jaques de St. Vrain, with a sworn translation; a copy of a complete title to Charles Gratiot, with a sworn translation, was offered on behalf of the petitioner; which the solicitors for the petitioners pray may not be enrolled as a part of the evidence in this cause, as it would unnecessarily prolong the record, and, waiving all benefit of exception for the omission to enrol the same, the same is accordingly not enrolled. No other evidence was offered on behalf of either of the parties.

And for that it seems to the court by the royal order of the twenty-fourth of August, seventeen hundred and seventy, directed to the Governor of the province of Louisiana, and his successors in office, the instruction which had been framed by General Alexander O'Riley, of the date of the eighteenth of February, of the same year, was exclusively to regulate the grant and distribution of the crown lands in Louisiana, so long as the King should not otherwise dispose. And for that the decree of the same King of the twenty-second day of October, in the year seventeen hundred and ninety-eight, which transferred the power to grant and distribute those lands to the intendancy of that province, and revoked the power by which, under the said royal order, the said Governors had distributed the said lands, did not abrogate the said instruction, but left the same in full force; and also introduced the royal regulation of seventeen hundred and fifty-four, and the laws cited therein, as well as the eighty-first article for the establishment of the intendants of New Spain. And for that, according to the said instruction, and also according to the regulations made by Morales, the intendant of the said province, dated the seventeenth day of July, seventeen hundred and ninety-nine, the claim and title of the said petitioner, derived through the said De Luzieres as aforesaid, is invalid both at law and in equity. And the act in virtue of which the said claim is made, was unauthorized by the royal regulation of seventeen hundred and fifty-four, or the laws cited therein, or by the said eighty-first article; the validity of the said title and claim of the said petitioner is therefore ordered, adjudged, and decreed against. And it is further ordered, adjudged, and decreed, that the said Charles Dehault Delassus pay all costs occasioned in and about the prosecution and defence of the said petition, and that execution go therefor.

MISSOURI DISTRICT, set.

I, Joseph Gamble, clerk of the late court of the United States for the Missouri district, under the authority of an act of Congress, approved the 26th May, 1824, and entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims," certify the aforegoing is a true and complete transcript of the record and proceedings of said court in a certain cause determined therein, in which Charles Dehault Delassus, made Pierre D. D. De Luzieres, was petitioner for the confirmation of seven thousand and fifty-six arpents of land, as the same is recorded in my office.

Given under my hand and private seal, there being no seal of office provided, at St. Louis, this first day of October, eighteen hundred and thirty.

[L. S.] JOSEPH GAMBLE.

Translation of original documents of which profert is made in the petition of Charles Dehault Delassus, under Pierre D. D. De Luzieres, as the same were offered in evidence on behalf of said petitioner, are in the words and figures following, to wit:

To Don Zenon Trudeau, Lieut. Gov. of the western part of Illinois, &c.

Pierre Charles Dehault, knight, lord of Delassus Luzieres, and knight of the great cross of the royal order of St. Michael, residing in New Bourbon, dependency of the post of St. Genevieve, has the honor to represent, that when he was at the city of New Orleans in May, 1793, he resolved to come up in the Illinois county on the positive assurance given him by his Lordship the Baron de Carondelet, Governor General of Louisiana, that he would order and authorize you to grant him a tract of land for the exclusive exploration of lead mines, and of a sufficient and convenient extent for said exploration, provided it should not be formerly granted to another, which warranty and assurances of the Government are to be found formally expressed in a letter here subjoined, and directed to your petitioner by the said Baron, under the date of May 8th, 1793, and which you have been pleased to assure me was exactly conformable to the official letter you received on that subject from the Governor General. The long and cruel disease which your petitioner experienced on his arrival in Illinois in August, 1793, the hostile threats of an invasion on the part of the French against the country some short time after, the orders you gave to the inhabitants not to go to any distance from their post, and the care and trouble which, to your knowledge, I have taken in that time to countenance the wise and efficacious means you have taken so successfully in putting the posts of Illinois in a state of defence, in case of an attack, of which care, endeavor, and zeal on my part, his Lordship Luis de la Casas, Captain General of Havana, being informed, I received from him a letter bearing date May 20th, 1794, by which he gives me the most honorable evidence of his satisfaction, as appears by copy of said letter here subjoined. That the occurrence of several circumstances hindered your petitioner to make a search of a tract of land containing lead mineral; he now, with the assistance of his children and son-in-law, and persons acquainted with the country, visited a place situated on one of the branches of river St. Francois, called Gaboury, in the district of St. Genevieve, and about twelve leagues from this post, which has not been yet granted, makes part of the king's domain, and where it is ascertained some mineral had been anciently dug, besides the external and internal appearance, according to the mineralogical principles, indicates that the spot contains lead mineral; therefore your petitioner has resolved to try in that place a general exploration of lead mine; he is so much induced to prosecute such an undertaking that he expects the arrival of his eldest son, now emigrated to Germany, who is well learned in mineralogy, having studied it particularly, and having been engaged in a similar branch in Europe with your petitioner, and will be very useful in exploring and conducting the one now solicited. Your petitioner flatters himself that you will not refuse to give this concession the extent of a league square, in order to secure the necessary fuel for the melting of the mineral, and other necessaries; under these considerations your petitioner humbly prays you, sir, that in conformity to the intentions of the Government manifested in the subjoined letters, of which you have been notified by the Governor General himself, you have been pleased to grant for himself, his heirs and assigns, in full property, the concession of a

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league square of land situated on said branch of river St. Francois, called Gaboury, in the district of St. Genevieve, with the exclusive right to explore the lead mines in the same, to cultivate and raise cattle on the said land if necessary; in so doing your petitioner will ever pray, &c.

DELASSUS DE LUZIERES.

NEW BOURBON, *March 3d*, 1795.

ST. GENEVIEVE, ILLINOIS, *March 10th*, 1795.

We, the commandant of said post, do inform the Lieutenant Governor that the concession demanded in the within petition is part of the king's domain, and has not been granted to any body, and that its extent fixed to a league square is indispensible and necessary to secure the timber for melting of mineral and other necessary supply.

FRANCIS VALLE.

Letter.

The knight Don Pierre Dehault Delassus has entered into contract with this intendancy, to deliver yearly, during the term of five years, thirty thousand pounds of lead in balls or bars. In order that he may comply with his contract, your worship will put him in possession of the land he may solicit, for the exploration, benefit, and enjoyment of the mines, for which purpose he is to present a memorial directed to me, and which your worship will transmit, that I may give him the corresponding decree of concession, being understood, in the mean time, your worship will put him in possession. God preserve your worship many years.

NEW ORLEANS, *May 7th*, 1793.

EL. BARON DE CARONDELET.

To Zenon Trudeau.

Letter.

I send you back the primitive titles of the concession granted Mr. Francois Vallé, of St. Genevieve, who transferred to Mr. Dodge one moiety of which; this last ceded to Mr. Tardiveau, who made a gift of it to your brother with the approbation and advice you desired. By this opportunity, I write to Mr. Zenon Trudeau to grant you the land where you will have made a discovery of lead mines, with adjacent lands of sufficient extent for their exploration: provided, nevertheless, that it should not be conceded to another.

Your son-in-law and your sons shall have also, as you desire, a plantation in any place they will select in Illinois, of an extent proportionate to the establishment and improvement they propose to make.

This is my answer to your letter No. 3. God have you in his holy keeping.

NEW ORLEANS, *May 8th*, 1793.

EL. BARON DE CARONDELET.

To Mr. Dehault Delassus.

Letter.

The Baron de Carondelet, Governor General of this province, has manifested to me, in his letter of the 27th of February last, the zeal and activity with which your worship (although laboring under a weak state of health,) has manifested in exciting the inhabitants and Indians to join in the common defence of those settlements, and more particularly the post under your

command. I do hope that your worship will continue with the same efficaciousness in similar circumstances, and give me an opportunity to reward your worship. God preserve your worship many years.—Havanna, May 20th, 1794.

LUIS DE LA CASAS.

Sir Don Peter Dehault Delassus De Luzieres.

Decree.

St. Louis, Illinois, *April 1st*, 1795.

Having read the present petition, the subjoined of the Baron de Carondelet, directed to the petitioner, under the date of May, 1793, also the official letter to us directed by said Governor General, authorizing and giving us order to grant the petitioner a concession in the spot selected by him, and of a sufficient extent to explore exclusively the lead mines in the same, also the above information of the commandant of St. Genevieve, by which he testifies that the land petitioned for is in the King's domain, and that it is indispensible that the quantity should be a league square; we, the Lieutenant Governor, in conformity with said orders and intentions of the Government, have granted, and do grant unto the petitioner, and to his heirs and assigns, in fee, the concession demanded, situate on a branch of the river St. Francois, called the Gaboury, in the place selected by him, the extent of which shall be a league square, to the end that he may explore exclusively the lead mines belonging to the same, and, if necessary, to cultivate and raise cattle, hereby commanding Don Francois Vallé, captain and commandant of St. Genevieve, in whose district the land is situated, to put the petitioner in possession thereof, the regular survey of which will be done as soon as a surveyor will be appointed and commissioned for the Upper Louisiana.

ZENON TRUDEAU.

St. Genevieve, Illinois, *April 15th*, 1795.

We, Don Francois Vallé, captain commandant, civil and military, of the post of St. Genevieve, in compliance with the foregoing decree of Don Zenon Trudeau, Lieutenant Governor of the western part of Illinois, bearing date the first instant, have this day, the fifteenth of the same month, put the knight Peter Delassus Deluzieres in possession of a league square of land situated on a branch of the river St. Francois, called Gaboury, as granted to him by the aforesaid decree, conformably to orders, and with the approbation of his lordship, the Governor General of this province. The said concession, in future, to be regularly surveyed by the king's surveyor, who is soon to be named and appointed for this upper colony.

In praemissoum fidem,

FRANCOIS VALLE.

To Don Charles Dehault Delassus, Colonel of the royal armies and Lieutenant Governor of Upper Louisiana.

Humbly petition Peter Charles Dehault Delassus Deluzieres, knight, &c., residing in New Bourbon, and has the honor to represent, that, in conformity to orders of the Governor of this province, your predecessor, Don Zenon Trudeau, did grant to your petitioner a concession of a league square of land, situate on a branch of the river St. Francois, called Gaboury, with the exclusive right to explore the lead mines on the same, as appears by his decree bearing date April 1st, 1795, of which concession and land your peti-

tioner was put in possession of Don Francois Vallé, captain commandant of the post of St. Genevieve, in whose district the land is situated, as appears by his act bearing date the 15th day of April, of said year; and whereas it is mentioned in said decree of Don Zenon Trudeau, that said concession will be regularly surveyed by the surveyor who has to be appointed by the Government for Upper Louisiana, and whereas Don Antoine Soulard has been commissioned and appointed as such surveyor, therefore, under these considerations, your petitioner requests you, sir, that after mature consideration of the instruments here submitted, relating to said concession, you be pleased to give the necessary orders to Don Antoine Soulard, surveyor of Upper Louisiana, to proceed without delay to the regular survey of said concession of a league square, on the said branch of river St. Francois, called Gaboury, to explore exclusively to any other the land, &c., and of which land he has already put in possession by the commandant of St. Genevieve, and has already began the exploration; he hopes to obtain his demand, inasmuch as he did not hurry the surveyor, in order to give him the necessary time to attend to the surveying of concessions belonging to other inhabitants, who wished to have their surveys quickly executed. In so doing, you will do justice. PIERRE DELASSUS DELUZIERES.

NEW BOURBON, *November 25th*, 1799.

By virtue of the contents of the above memorial and the accompanying documents, and also from what it appears by the official letter of the Baron de Carondelet, late Governor of these provinces, bearing date the 7th and 8th of May, 1793, on file in these archives:

The surveyor, Don Antoine Soulard, will survey the league square of land which was granted to the party interested by the decree of my predecessor, the Lieutenant Governor Don Zenon Trudeau, dated 1st April, 1795, conformable to orders of his lordship the Governor, and of which land he has been put in possession, as appears by decree of Francois Vallé, commandant of St. Genevieve, bearing date April 15th, of the year last mentioned, to be hereafter surveyed by the Governor of this Upper Louisiana, when appointed and commissioned.

CHARLES DEHAULT DELASSUS.

ST. LOUIS, *November 29th*, 1799.

UPPER LOUISIANA, NEW BOURBON, DISTRICT OF ST. LOUIS OF ILLINOIS.

NOTE.—The corners and stones on the line are cemented with pieces of iron pots. All corner and line trees are branded with the name of owner, D. L.* Book A, page 50, No. 135.

Anthony Soulard, principal deputy surveyor of the settlements of Upper Louisiana, certify that on the 14th day of December, of last year, (in virtue of the foregoing decree from Mr. Charles Dehault Delassus, Lieutenant Governor of these settlements of Upper Louisiana, dated on the 29th of November, of last year,) I went on the land of Mr. Peter Delassus De Luzieres to survey it according to his request, to contain one square league, or 7,056 arpents in superficies, which admeasurements were made in presence of the proprietor, with the perch of Paris of 18 feet in length, agreeable to the custom adopted in this province of Louisiana. This tract of land situated at about 25 miles W. S. W. of New Bourbon, is bound on the four sides N. S. E. and W., by vacant lands of the king's domain.

* For plat, see original.

In testimony whereof, I give him these presents, with the preceding figurative plan, on which the courses and distances, and the limits, both natural and artificial, are represented along the periphery. St. Louis of Illinois, March 5th, 1800.

ANTONIO SOULARD, *Sur. Par.*

MISSOURI DISTRICT, sct.

I, Joseph Gamble, Clerk of the late court of the United States for the Missouri district, under the authority of an act of Congress, approved 26th May, 1824, and entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims," certify that the foregoing is a true and perfect transcript of translations of original documents produced on the hearing of the petition of Charles Dehault Delassus, for the confirmation of 7,056 arpents of land, as the same are in my office on file with the papers of said suit.

Given under my hand and private seal, there being no seal of court provided, at St. Louis, the 5th day of November, 1830.

JO. GAMBLE.

Know all men by these presents, that I, Marie Philip Leduc, of the city and county of St. Louis and State of Missouri, am held and firmly bound unto the United States of America in the penal sum of one hundred dollars, to the payment of which sum, I bind myself, my heirs, executors, and administrators. The condition of the above obligation is such, that, whereas an appeal has been taken from the decree of the district court of the United States for the Missouri district, to the Supreme Court of the United States, in the cause wherein Charles Dehault Delassus, under De Luzieres, is petitioner, and the United States are defendants: Now, if the said appellant shall prosecute his appeal with effect, and answer all damages and costs if he fails to make his plea good, then this obligation to be void and of no effect, otherwise to remain in full force and virtue.

In witness whereof, I have to these presents set my hand and seal, at St. Louis, this 19th day of October, 1830.

M. P. LEDUC. [SEAL.]

Taken and approved by me.

JAMES H. PECK, *Judge.*